

Town of Shirley  
Board of Appeals



## BOARD of APPEALS APPLICATION

FOR TOWN USE ONLY

Received in the office of the Town Clerk

Date

Time

Town Clerk

Zoning Officer

Date

### 1. LOCATION

No \_\_\_\_\_ Street \_\_\_\_\_ Map \_\_\_\_\_ Block \_\_\_\_\_ Parcel \_\_\_\_\_

Owners Name \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_ Email \_\_\_\_\_

Applicant Name \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_ Email \_\_\_\_\_

### 2. APPLICATION REQUEST

Application is for:

- ☐ Special Permit
- ☐ Permit to expand, alter or change a nonconforming use or structure
- ☐ Variance
- ☐ Appeal from the filing of any administrative official
- ☐ Comprehensive Permit
- ☐ Other (Please Specify)

Applicable Section(s) of the Zoning Bylaw: \_\_\_\_\_

Please state the reason for this Petition. Include as much information as possible. Include all information asked for in the directions. Use the additional sheet if necessary. **If any of the additional information is on paper larger than legal size—16 additional copies must be included.**

If an application for a Building Permit was submitted to the Building Inspector on \_\_\_\_\_ and was denied. Please include a copy.

### 3. ZONING AND PROPERTY INFORMATION

ASSESSORS' MAP \_\_\_\_\_

BLOCK \_\_\_\_\_ PARCEL \_\_\_\_\_

ZONE	RR	<input type="checkbox"/>	WATER OVERLAY DISTRICT	W1	<input type="checkbox"/>
	R-1	<input type="checkbox"/>		W2	<input type="checkbox"/>
	R-2	<input type="checkbox"/>		W3	<input type="checkbox"/>
	R-3	<input type="checkbox"/>		NOT	<input type="checkbox"/>
	C-1	<input type="checkbox"/>		APPLICABLE	
	C-2	<input type="checkbox"/>	MEMBER OF SEWER	PRIVATE	
	I	<input type="checkbox"/>	DISTRICT <input type="checkbox"/>	SEPTIC <input type="checkbox"/>	

If the Petitioner has any knowledge of prior action by the Board of Appeals regarding the land or building involved in the petition, describe the case and date of action.

\_\_\_\_\_  
\_\_\_\_\_

### 4. OWNER CERTIFICATION

The undersigned hereby certifies that he/she has read and examined this application, the Board of Appeals Procedures and Checklist and that the proposed project is accurately represented in the statements made in this application.

Owner(s) \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

Applicant \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

# Zoning Board of Appeals Petition Flow Chart

Applicant determines need for Special Permit, Permit, or Variance by talking to the Zoning Officer

Applicant obtains Application from Town Clerk or Zoning Officer **and** abutters list from Assessors

Applicant submits **COMPLETED** application with fee to Town Clerk

Board of Appeals reviews Application, sets hearing date, post public hearing, notifies abutters

Board of Appeals conducts public hearing which may include site visit, public input, continuing hearing, etc.

Application Approved

NO

Applicant may appeal to Superior Court, Land Court or re-file in 2 years

YES

Within 14 days Board of Appeals Clerk files decision with Town Clerk and mails a copy to the Petitioner

If no appeal is filed within 20 days, Petitioner can obtain the certified copy from the Town Clerk

Applicant files decision with the Registry of Deeds in Cambridge

Applicant take copy of filed decision to Zoning Officer to obtain Building Permit

## FEES AND OTHER EXPENSES

Checks should be made payable to the Town of Shirley

**Residential Fee:** \$150

**Non-Residential Fee:** \$250 plus \$50 for each addition zoning section requested

**Consultant Review Fee:** may be required for some petitions, amount is determined by consultant. Applicant shall deposit said amount (in advance) with the Town Treasurer

*Hearing to take place within 65 days from filing date, notice to be posted in Town Hall and published in the newspaper once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing (MGL Ch 40A Sec 11)*

*Board has 90 days from end of hearing to take final action.*

## CONTACT INFORMATION

**Board of Appeals:** 978-425-2600 ext.240

**Town Clerk:** 978-425-2600 ext. 205

**Zoning Officer:** 978-425-2600 ext. 260

## INSTRUCTIONS FOR APPLICATION

The Board reserves the right to review the Application before it is filed with the Town Clerk. Please contact the Chairperson to be placed on the agenda and plan to attend the monthly Board meeting. This meeting is held on the first Monday of each month at 7:30 PM in the Land Office Room, second floor Town Office Building, 7 Keady Way, Shirley MA.

### PLEASE NOTE:

The Town of Shirley revised Town By-Laws Of July 2003 Section 13.2 states " The Licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers held by any party whose name appears on said list furnished to the licensing authority by the Tax Collector... Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit." The Board of Appeals has voted to enforce this By-Law in their decisions. Therefore all Petitions coming before the Board with **outstanding taxes or sewerage charges** will be **denied**.

1. Every application for a Public Hearing shall be on a form provided by the Board of Appeals, Town Clerk, or Building Inspector/Zoning Officer, attached to these instructions. **Two original signed copies** must be filed with the Town Clerk, after review and verification by signature of the Zoning Officer. A complete set of all attachments and exhibits shall accompany each application. **If plans submitted are larger than legal size, 16 copies of said plans must be included.** Please keep these instructions for further reference.
  - A. Fill out the form **completely** with all pertinent information. **Incomplete information will delay a Board ruling.** Please tell us why you have submitted the application, i.e. submit some type of narrative stating the reason for your Application.
  - B. Attach a copy of the Deed.
  - C. Attach a copy of the Building Permit application, if applied for.
  - D. Attach a copy of Plans (plot, building, etc.), including the following information:
    - a) Boundaries of the property.
    - b) Adjoining street and other identifying landmarks.
    - c) Dimensional layout of all buildings.
    - d) Distances building are set back from boundaries and from each other.
    - e) Exact dimensions, setbacks and specifications of any new construction, alterations, additions or installations regarding this application.
    - f) The location of all existing and proposed wells, septic systems and underground utilities.
    - g) The direction of North
  - E. Attach a list of abutters certified by the Shirley Board of Assessors, as they appear on the most recent local tax list. An abutter is any owner of land next to the property and across any public or private way. Also include abutters to the abutters within 300 feet of the property lines on all sides of the Applicant. If the Shirley Board of Assessors indicates any abutters are in another town, you must have a list of these abutters certified by that Town's Board of Assessors.

2. Indicate in the space provided what type of ruling you are applying for. This information may be obtained from the Building Inspector/Zoning Officer, although **final responsibility rests with the Applicant.**
3. The Applicant, Owner and the Building Inspector/Zoning Officer must sign the application personally.
4. **FEE SCHEDULE FOR THE ZONING BOARD OF APPEALS (ZBA):**  
All applicants requesting a hearing before the ZBA shall pay a filing fee according to the following schedule.  
Fees are based on the type of project being proposed.

**RESIDENTIAL:**

\$150.00 – Filing Fee (payable to the Town of Shirley)

**NON-RESIDENTIAL:**

\$250.00 – Filing Fee (payable to the Town of Shirley)

\$50.00 – For each additional zoning section requested on the same application, i.e. special permit and a variance = \$250.00 for special permit and \$50.00 for a variance for a total of \$300.00.

**PLANNED UNIT DEVELOPMENT: 40B PROJECT**

See Board of Appeals for Application and Fees.

**All fees are due at the time the application for hearing is submitted to the Town Clerk.**

5. Additional documentation may be submitted at the Public Hearing and the Board of Appeals can require additional documents deemed necessary by the Board.
6. Board of Appeals members may inspect the property prior to the Public Hearing.
7. The Board of Appeals may, at its discretion, dismiss an application or appeal (without prejudice) for failure to comply with any of the forgoing rules.
8. The Board strongly recommends that any potential applicant attend a Board of Appeals meeting for assistance they may need in completing the application and to answer questions.

All Town offices are located in the Municipal Building, 7 Keady Way, Shirley, MA 01464.

Office	Phone
Building Inspector/Zoning Officer	978-425-2600 x260
Town Clerk	978-425-2600 x 205
Board of Assessors	978-425-2600 x220
Board of Appeals	978-425-2600 x240

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## Variances

Before any Variance is granted, the following conditions must be present and demonstrated:

1. Circumstances relating to soil condition, shape or topography of such land or structures, and especially affecting such land or structures, but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of the ordinance or Bylaw would involve substantial hardship, financial or otherwise, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such Zoning Bylaw.
2. Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighborhood lands, structures or buildings in the same district.
3. Strict application of the provisions of this Bylaw would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighborhood lands, structures or buildings in the same district.
4. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this Bylaw.
5. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this Bylaw.
6. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

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## Special Permits

Before any Special Permit is granted, the following conditions must be present and demonstrated:

1. Granting the Special Permit would not be detrimental to the public health, safety, welfare, comfort or the convenience of the community and would not be adverse to the Town's economy and environment.
2. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience; off street parking and loading areas where required, traffic flow and control; access in case of fire or catastrophe; and the capability of public roads to support the added traffic safely.
3. The proposed use will not create any danger of pollution to the public or private water facilities and the methods of drainage at the proposed site, either on-site or public sewage system wherever necessary are adequate. No excessive demand shall be imposed on the water supply systems. The Board of Appeals may require the applicant to present engineering data showing effects both on and off the site on natural recharge of the groundwater, yield from abutters' wells and quality of surface and groundwater. If required, information on impacts on ground water quality should include data on storm water runoff, recharge, background water quality, on-site septic systems, and other on-site operations, including use of pesticides, fuel, toxic materials, hazardous materials and fertilizers which may be used in conjunction with the proposed development.
4. Signs, if any, proposed exterior lighting with reference to glare and that no excess noise, vibration, light, dust, smoke, heat, glare or odor shall be observable at the lot lines.
5. Refuse collection or disposal and service areas, with particular reference to items in Paragraphs 2 and 3 above.

6. Screening and buffering with reference to type, dimension and character.
7. Required yards and other open space.
8. Economic effect and general compatibility and harmony with adjacent properties and other property in the district.
9. The comments and recommendations of the Planning Board have been considered where the Special Permit has been submitted to the Planning Board and the Planning Board has submitted its recommendations as required by this Bylaw. Reasons for not accepting any of the comments and recommendations of the Planning Board shall be noted.

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#### IF A PETITION IS GRANTED:

1. You must wait 20 days in case there is an appeal. The 20-day period starts on the date that the decision is filed with the Town Clerk. Within this time you will receive, by certified mail, your original copy of the decision. After the 20-day waiting period ends, take your original copy of the decision to the Town Clerk to have it certified by her.
2. For a VARIANCE and a PERMIT TO EXPAND, ALTER OR CHANGE AN NONCONFORMING USE OR STRUCTURE you must file this original signed copy with the Middlesex County Registry of Deeds, PO Box 68, 208 Cambridge St., East Cambridge, MA 02141, Phone 617-679-6310. You will be required to pay a registration fee.
3. Please ask for a certified copy of the filing to bring to the Building Inspector. If you wait for the Registry to mail it you may have to wait a very long time.
4. Bring the certified copy to the Building Inspector and he will then issue the necessary permits.

#### TO APPEAL A DECISION OF THE BOARD OF APPEALS:

Any appeal to a decision of the Board of Appeals shall be made pursuant to Section 17 of the Massachusetts zoning Act Chapter 40A and shall be taken within 20 days after the decision has been filed in the office of the Town Clerk.

#### If you are applying for a SPECIAL PERMIT:

1. If it comes to the attention of the ZBA that the Petitioner may be in violation of any condition put forth in your **special permit**, then upon notice, you must immediately cease and desist from building or operating. You must appear before the ZBA in thirty (30) days to be heard on this matter. If you fail to appear within said thirty days, your special permit will stand revoked on the thirtieth day.
2. The Issuance of any **special permit** may be conditioned on posting a bond to pay for the Town of Shirley legal expenses in the event that the Town incurs legal expenses to enforce the conditions of the special permit. The Duration and amount of the posting will be at the discretion of the ZBA depending on the complexity of the issues involved. In the past amounts have ranged from \$2000 to \$10,000 but could be higher

## APPLICATION CHECKLIST

- ☐ Are your taxes and sewerage fees current?
- ☐ Have you attached a copy of the Building Permit application, if you applied for a Building Permit? Have you included a copy of the Deed?
- ☐ Have you attached a list of all abutters within 300 feet of the property that is the subject of this application?
- ☐ Have you thoroughly explained the reason for this application?
- ☐ Have you attached plans that will assist the Board of Appeals in making a determination on this application?
- ☐ Have you signed this application?
- ☐ Has the Zoning Officer signed this application?
- ☐ Have you included two original signed (2) copies and the appropriate filing fee?

The Town Clerk must have two original copies or she will not accept this Application.

The Board reserves the right to review the Application before it is filed with the Town Clerk. Please contact the Chairperson to be placed on the agenda and plan on attending the monthly Board Meeting. This meeting is held on the first Monday of the month at 7:30PM in the Land Office Room, second floor Town Office Building, 7 Keady Way, Shirley MA